



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
<http://www.epa.gov/region08>

DOCKET NO.: SDWA-08-2003-0054

IN THE MATTER OF:

RIM OPERATING, INC.

Respondent

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FINAL ORDER

Pursuant to 40 C.F.R. § 22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby ORDERED to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

May 18, 2004
DATE

SIGNED
Alfred C. Smith
Regional Judicial Officer

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Docket No.: SDWA-08-2003-0054

In the Matter of:)	
)	
RIM Operating, Inc.)	CONSENT AGREEMENT
)	
Respondent.)	

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent RIM Operating, Inc. (RIM), by their undersigned representatives, hereby consent and agree as follows.

BACKGROUND

1. EPA issued to RIM Offshore, Inc. a Proposed Administrative Order and Opportunity to Request a Hearing (PAO) filed on September 22, 2003, alleging certain violations of Part C of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h et seq., relating to the underground injection control (UIC) program.

2. RIM Offshore, Inc. is an affiliated company to RIM Operating, Inc. (RIM). EPA was notified by RIM that RIM Operating, Inc. is the operator of the wells at issue and while RIM Offshore, Inc. has a small ownership interest in some of the wells at issue, it does not operate any of the wells. Therefore, according to RIM, the more appropriate settling party is RIM Operating, Inc. and not RIM Offshore,

Inc. Since no Answer has been filed in this matter, EPA may, pursuant to 40 C.F.R. §22.14(c), as a matter of right, amend the PAO, to among other things, amend the name of the Respondent. In settling with RIM Operating, Inc. in this Consent Agreement, EPA has, in effect, amended the PAO to change the name of the Respondent. RIM, by signing this Consent Agreement, agrees to the change.

3. The PAO alleged, among other things, that RIM violated the SDWA by (a) exceeding the maximum allowable injection pressure at one well, (b) failing to timely conduct a mechanical integrity test at one well, (c) failing to timely report a loss of mechanical integrity at one well, (d) failing to timely submit fluid analyses as required at four wells, and (e) failing to timely submit annual monitoring reports as required at four wells. The wells are located inside the exterior boundaries of the Uintah and Ouray Indian Reservation, Duchesne County, Utah.
4. In response to the PAO, RIM submitted information on October 20, 2003, disputing the allegations and in mitigation of the proposed penalty. In particular, RIM submitted documentation that showed daily injection pressure values, rather than the monthly maxima that had been earlier reported and which had been relied upon by EPA when alleging the excess injection pressure violation in Paragraph 2(a) above. This documentation indicated there were fewer days of non-compliance than had been alleged, allowing EPA to more accurately determine the duration of that violation. EPA reduced the penalty from the proposed amount accordingly.

5. To resolve this matter, and without adjudication of any issue of law or fact, the parties agree to a settlement requiring the expenditure by RIM of a payment in the amount of \$3,600.00 (three thousand, six hundred dollars). EPA finds this penalty amount is appropriate, taking into consideration the statutory factors in Section 1423(c) (4) (B) of the SDWA; the UIC Penalty Policy; RIM's agreement to perform a Supplemental Environmental Project (SEP) and other relevant factors.
6. RIM admits that EPA has the jurisdictional authority to issue the PAO and settle this case pursuant to this Consent Agreement, but does not admit nor deny the remaining allegations, including the findings and alleged violations.
7. This Consent Agreement applies to and is binding upon EPA and upon RIM and RIM's successors and assigns. Any change in ownership or corporate status of RIM including, but not limited to, any transfer of assets of real or personal property shall not alter RIM's responsibilities under this agreement.
8. For the purposes of this Consent Agreement only, RIM waives its right to contest any issue of law or fact set forth in the PAO and knowingly agrees to waive its right to a hearing on this matter under section 1423(c) (3) (a) of the SDWA, 42 U.S.C. 300h-2(c) (3) (a), and to appeal this matter under SDWA section 1423(c) (6), 42 U.S.C. 300h-2(c) (6).

TERMS OF SETTLEMENT

Civil Penalty

9. RIM consents to the issuance of the Consent Agreement and for the purposes of settlement to the payment of the above-cited civil penalty and to the performance of the SEP more fully described below in paragraph 14, below.
10. RIM shall, not more than 30 (thirty) calendar days after the date of the signed Final Order in this matter, submit a cashier's or certified check in the amount of amount of \$3,600.00 (three thousand, six hundred dollars), payable to "Treasurer, United States of America" to:

EPA - Region 8
Regional Hearing Clerk
Post Office Box 360859
Pittsburgh, Pennsylvania 15251.

11. A copy of the check identified in paragraph 10 shall be simultaneously mailed to the following addresses:

Tina Artemis, Regional Hearing Clerk
U.S. EPA, Region 8 (8RC)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

Jim Eppers, Senior Enforcement Attorney
U.S. EPA, Region 8 (8ENF-L)
999 18th Street, Suite 300
Denver, Colorado 80202-2466.

12. RIM further agrees and consents that if RIM fails to pay the penalty in accordance with the terms of paragraph 9, the

amount of \$29,839.00 (twenty nine thousand, eight hundred thirty nine dollars) less any payments made, if any, shall be due and owing. Interest on this amount shall accrue at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. §3717. A late payment charge of twenty dollars (\$20.00) shall be imposed after the first 30 calendar days that the payment, or any portion thereof, is overdue, with an additional charge of fifteen dollars (\$15.00) imposed for each subsequent 30-day period until the payment due is made.

13. The penalty specified in paragraph 10 above shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

Supplemental Environmental Project

14. SEP Description. RIM shall undertake the performance of the SEP described in Exhibit A (hereby referenced and incorporated herein as Exhibit A), which the parties agree is intended to provide significant environmental benefit to the area in the vicinity of where the violations alleged by EPA in the PAO took place. The total expenditure for the SEP shall be \$12,026.00 (twelve thousand, twenty-six dollars).
15. RIM hereby certifies that, as of the date of this Consent Agreement, RIM is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is RIM required to perform or develop the SEP by agreement, grant or as injunctive relief in this or any other case or in compliance with state or local requirements. RIM further

certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

16. Any public statement, oral or written, made by RIM making reference to the SEP shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of the SDWA."
17. RIM shall provide to EPA written notification and evidence that it has deposited the SEP expenditure of \$12,026.00 (twelve thousand, twenty-six dollars) into the escrow account described in Exhibit A. This written notification shall be provided by RIM to EPA within seven calendar days of the deposit.
18. RIM shall submit all notices required by this Consent Agreement by first class mail to:

Nathan Wiser
U.S. EPA Region 8 (8ENF-UFO)
999 18th Street, Suite 300
Denver, CO 80202-2466.

GENERAL PROVISIONS

19. This Consent Agreement (including Exhibit A) contains all the terms of the settlement agreed to by the parties.
20. Nothing in this Consent Agreement shall relieve RIM of the duty to comply with the SDWA and its implementing regulations.

21. Failure by RIM to comply with any of the terms of this Consent Agreement shall constitute a breach of the agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.
22. Nothing in this Consent Agreement shall be construed as a waiver by the EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of RIM's failure to perform pursuant to the terms of this Agreement.
23. The undersigned representative of RIM certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind RIM to those terms and conditions.
24. Each party shall bear its own costs and attorneys fees in connection with this matter.
25. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.
26. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall resolve RIM's civil liability for and shall be a complete and full civil, administrative and injunctive relief settlement of the specific violations and facts alleged in the PAO.

RIM Operating, Inc.

Date: **5-6-04** By: **Rene' Morin - V. P.**

**U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Date: **5/17/04** By: **SIGNED**
Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Exhibit A to Consent Agreement between EPA and RIM Operating, Inc. (RIM)

Docket No. SDWA-08-2003-0054

Supplemental Environmental Project (SEP) Description

RIM shall, within 15 (fifteen) calendar days of receiving a signed Final Order in this matter, remit a cashier's or certified check in the amount of \$12,026.00 (twelve thousand twenty six dollars), (the "SEP Funds") payable to the Wells Fargo Bank West, National Association (Bank), for deposit into the U.S. Environmental Protection Agency, Region VIII/The Ute Indian Tribe Escrow, account no. 12190500, established by EPA and the Tribe to clean-up and permanently close the Chapoose Commercial Oil Disposal Facility (Chapoose Facility), located on tribal trust land within the exterior boundaries of the Uintah and Ouray Indian Reservation, Duchesne County, Utah, in January 2002.

RIM may remit the SEP Funds to the Bank by electronic wire transfer pursuant to wiring instructions provided by the Bank. Escrowed funds may be released by the Bank, in its capacity as escrow agent pursuant to the escrow instructions, to the Tribe for approved clean-up and/or closure tasks pertaining to the Chapoose Facility cleanup project. The SEP Funds shall be released on a quarterly basis following a) receipt of written request from the Tribe for the release of a specific dollar amount of funds for use on the Chapoose Facility cleanup project; and b) receipt of a copy of a letter from EPA or the Bureau of Indian Affairs (BIA) or both to the Tribe, agreeing that said funds are necessary and meet the release provisions set forth in the memorandum of agreement between the Tribe, EPA and BIA.

For purposes of this SEP and the escrow account referenced herein, the appropriate Bank contact and address is as follows:

JoAnn Williams, Escrow Agent
Corporate Trust and Escrow Services
Wells Fargo Bank West, National Association
1740 Broadway, MAC C7301-024
Denver, CO 80274
Telephone: (303) 863-6261
Facsimile: (303) 863-5645

The SEP Funds are made solely for the purposes of resolving part of RIM's alleged liability under the Consent Agreement.

EPA contractor Tetra Tech EM, Inc. (Tetra Tech), is responsible for organizing and overseeing the Chapoose Facility clean-up and closure.

The amount of \$12,026.00 provided by RIM pursuant to this Consent Agreement will be used in a particular phase of the clean-up called "Management of Waste Oil in Pits." This phase of the project entails the removal, transportation and disposal of waste oil from the Chapoose facility, and is referred to hereinafter as the "Work." It is anticipated that this phase will be completed by the end of the Summer, 2004. The SEP Funds will be expended on 2,405 barrels of waste oil removed, transported and disposed of based on a per barrel cost of \$5.00. Following the expenditure of the SEP Funds by Tetra Tech, EPA shall notify RIM in writing and deem RIM's SEP obligation to have been wholly satisfied.

If, for any reason, the "Management of Waste Oil in Pits" phase of the overall project is completed without removing, transporting and disposing of all 2,405 barrels of waste oil, the remainder of the SEP Funds shall be dedicated to another phase or phases of the cleanup project. In this event, EPA will notify RIM in writing that the remaining funds will be dedicated to another phase or phases of the cleanup (which shall also be the Work) and deem RIM's SEP obligation to have been wholly satisfied.

Lastly, EPA will provide RIM written notice if the entire project is completed without expending the total amount of the SEP Funds. In this instance, the remaining SEP funds in escrow shall be returned to RIM. No later than 15 (fifteen) calendar days following receipt of these funds, RIM shall remit this amount to the U.S. Treasury in accordance with the requirements of paragraph 10 of this Consent Agreement.

It is expressly acknowledged and agreed to by EPA that Tetra Tech is solely responsible for the Work and is not an agent of RIM. Tetra Tech shall not use RIM's name on any permit or waste manifest associated with the Work. By entering into this Consent Agreement and Exhibit A, EPA expressly acknowledges and agrees that RIM is not liable for and does not assume any liability for or related to the Work or for or related to the overall Chapoose Facility clean-up or closure. Neither this Consent Agreement and Exhibit A, or the implementation of the Work, shall be construed to be, or shall be admissible in any proceeding, as evidence of any liability for or in relation to the Work.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **RIM OFFSHORE, INC. DOCKET NO.:SDWA-08-2003-0054** was filed with the Regional Hearing Clerk on May 18, 2004.

Further, the undersigned certifies that a true and correct copy of the document was delivered to James H. Eppers, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on May 18, 2004, to:

Colin G. Harris, Esq.
1401 Pearl Street, Suite 400
Boulder, CO 80302

May 18, 2004

SIGNED

Tina Artemis
Regional Hearing Clerk

THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE ON MAY 18, 2004.